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PATENT APPLICATION

ATTORNEY DOCKET NO. 10017258-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Braun

Confirmation No.: 5965

Application No.: 09/940,616

Examiner: Pope, Darryl

Filing Date: August 29, 2001

Group Art Unit: 2812

Title: Electronic Doorbell System

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

Amended
TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on *Non-compliance Appeal Brief* March 9, 2009.

☐ The fee for filing this Appeal Brief is \$540.00 (37 CFR 41.20).

☒ No Additional Fee Required.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month
\$130

☐ 2nd Month
\$490

☐ 3rd Month
\$1110

☐ 4th Month
\$1730

☐ The extension fee has already been filed in this application.

☐ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 00. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Respectfully submitted,

Braun

By 

Wendell J. Jones

Attorney/Agent for Applicant(s)

Reg No. 45,961

Date: April 9, 2009

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

| | | | |
|-------------|----------------------------|-----------------|--------------|
| Applicant: | Braun | Examiner: | Pope, Darryl |
| Serial No.: | 09/940,616 | Group Art Unit: | 2812 |
| Filed: | August 29, 2001 | Docket No.: | 10017258-1 |
| Title: | ELECTRONIC DOORBELL SYSTEM | | |

AMENDED APPEAL BRIEF UNDER 37 C.F.R. §41.37

Mail Stop Appeal Brief – Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

This Amended Appeal Brief is submitted in response to the Notification of Non-Compliant Appeal Brief received on March 9, 2009. Appellant respectfully requests consideration and reversal of the Examiner's rejection of pending claims 1-20.

Appeal Brief to the Board of Patent Appeals and Interferences

Applicant: David A. Braun

Serial No.: 09/940,616

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REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant that will have a bearing on the Board's decision in the present Appeal.

STATUS OF CLAIMS

In a Final Office Action mailed December 24, 2003, claims 1-20 were finally rejected. Claims 1-20 are pending in the application, and are the subject of the present Appeal.

STATUS OF AMENDMENTS

No amendments have been entered subsequent to the Final Office Action mailed December 24, 2003. A Response After Final was filed and but no amendments to the claims were proposed by Appellants or entered by the Examiner. The response After Final Office Action was considered in the Advisory Action dated June 8, 2004. The response is not entered with the filing of this Appeal Brief

SUMMARY OF THE CLAIMED SUBJECT MATTER

The Summary is set forth as an exemplary embodiment as the language corresponding to independent claims 1 and 13. Discussions about elements of claims 1 and 13 can be found at least at the cited locations in the specification and drawings.

The present invention, as claimed in independent claim 1, provides a doorbell arrangement that includes a user interface for entering a user code. The user code is indicative of a visitor. The doorbell arrangement also includes a logic circuit for identifying the visitor. The identification of the visitor is based on the entered user code. The

arrangement further includes a signal transmitter for transmitting a particular response signal. The particular response signal is based on the identification of the visitor by the logic circuit. (See, e.g., specification at page 8, line 23 –page 9, line 2; Figure 2 reference numbers 100, 101, 102, 103, 170, 200, 205, 250 and 260.)

Another aspect of the present invention, as claimed in independent claim 13, provides a method of identifying a visitor by using a doorbell arrangement. In this respect, the doorbell arrangement has a user interface for entering a user code. The method of identifying a visitor includes the step of receiving the user code. The user code is indicative of the visitor. The method also includes the step of identifying the visitor from the user code. The method of identifying a visitor also includes the step of transmitting a signal in response to the identification of the visitor. The response signal is indicative of the visitor. (See, e.g., specification at page 9, line 4 –page 9, line 28; Figure 3 reference numbers 310, 320 and 330.)

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- i. Claims 1-3, 5-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutes (5,673,016) in view of Mozer (5,657,380).
- ii. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutes in view of Mozer as applied to claims 1 and 14, respectively, and further in view of Puchek et al (6,496,595).

ARGUMENT

I. The Applicable Law

When making an obvious rejection under 35 U.S.C. § 103, a necessary condition is that the combination of the cited references must teach or suggest all claim limitations. If the cited references do not teach or suggest every element of the claimed invention, then the cited references fail to render obvious the claimed invention, i.e. the claimed invention is distinguishable over the combination of the cited references.

Additionally, for reference structures to be properly combined and thereby render a claimed invention obvious, there must be some motivation for the combination i.e. there must

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be some teaching, suggestion, or incentive to make the combination claimed by the appellant. *Northern Telecom, Inc. v. Datapoint Corp.* 15 USPQ2d 1321, 1323 (CAFC 1990).

Motivation coming from the appellant's own disclosure is not sufficient. Nor is it sufficient that those of ordinary skill in the art had the capability to combine the referenced structure or understood the advantages of the combination. Although an Examiner may suggest that the structure of a primary prior art reference *could* be modified in view of a secondary prior art reference to form the claimed structure, the mere fact that the prior art *could* be so modified does not make the modification obvious ***unless the prior art suggested the desirability of the modification.*** *In re Newell*, 891 F.2d 899, 13 USPQ2d 1248 (CAFC 1989). (Emphasis added.)

II. Claims 1-3, 5-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutes (5,673,016) in view of Mozer (5,657,380). Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutes in view of Mozer as applied to claims 1 and 14, respectively, and further in view of Puchek et al (6,496,595).

In the Final Office Action, dated December 24, 2003, claims 1-3, 5-16 and 18-20 were rejected under 35 U.S.C. § 103(a) over Lutes in view of Mozer and claims 4 and 17 were rejected under 35 U.S.C. § 103(a) over Lutes in view of Mozer as applied to claims 1 and 14 and further in view of Puchek et al. (U.S. Pat No 6,496,595). Appellants respectfully request that the Board reverse the Examiner's final rejection of Claims 1-20 under 35 U.S.C. § 103(a).

The Cited Prior Art

Lutes (U.S. Pat. No 5,673,016)

The Lutes reference discloses a multifunction visitor information system for use in association with a building structure including an electrical system, intercom system, doorbell system, security system and telephone system. The Lutes apparatus includes a central control

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unit formed in a planar configuration with an essentially hollow interior, the control unit being couplable to a desired mounting surface, the control unit including at least one light, a liquid crystal display panel and a plurality of function buttons being positioned within the display unit and operatively coupled to the liquid crystal display panel, the function buttons permitting users to send a plurality of different coded sequences to the panel thereby causing different messages to be displayed on the panel.

Mozer (U.S. Pat. No 5,657,380)

Mozer discloses an automatic door answering and message system. A preferred embodiment of the system has an interior unit and an exterior unit that communicate via an RF link. The system uses voice recognition and synthesis to interact with visitors. In addition to playing messages to and recording messages from visitors, the system also broadcasts to the inside their responses to predetermined queries, thereby permitting a resident to screen visitors in secret. Programmed dialogue scripts control the automated interaction between the machine and visitors. The system also has an intercom feature that enables the resident to talk with a visitor without opening the door. When the intercom is turned on, any automated dialogue script is interrupted. The system also includes a sensing means for sensing the open/closed state of the door, so that any automated dialogue script is interrupted by the opening of the door. Other embodiments include a telephone interface and a proximity sensor

Puchek et al. (U.S. Pat No 6,496,595)

Puchek discloses an access control apparatus and method. Enrollment is conducted at a centralized server and enrollment data, such as identification data is downloaded to plural local access units at respective entrances to a restricted area. The local access units then collect data of a person upon an attempted entry in to the area and compare the data with downloaded enrollment data to determine if the person is authorized for access. If the person is authorized, an access control device is operated to open a door, gate, or the like of the entrance. The enrollment data can be biometric data and the same type or different type of biometric data can be collected at the local access units. If a different type of data is

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collected at the local access units and is correlated to data stored on the local access unit, data of the same type as the downloaded data is collected and compared to the downloaded data for access control. The enrollment data can be non environmentally affected data, such as fingerprint parameter data and the different type of data can be environmentally affected data, such as facial parameter data.

- A. Claims 1-3, 5-16 and 18-20 are not unpatentable under 35 U.S.C. § 103(a) over Lutes (U.S. Pat. No 5,673,016) in view of Mozer (U.S. Pat. No 5,657,380).**

Claims 1 and 13

The present invention as recited in varying forms of the independent claims includes a doorbell arrangement and method of use thereof. The doorbell arrangement includes a user interface for entering a user code. The user code is indicative of a visitor. The doorbell arrangement also includes a logic circuit for identifying the visitor. The identification of the visitor is based on the entered user code. The arrangement further includes a signal transmitter for transmitting a particular response signal. The particular response signal is based on the identification of the user by the logic circuit.

In the office action dated August 21, 2003, the Examiner asserts that the present invention is unpatentable in view of Lutes and Mozer. The Lutes reference discloses a multifunction visitor information system for use in association with a building structure including an electrical system, intercom system, doorbell system, security system and telephone system. The Lutes apparatus includes a central control unit formed in a planar configuration with an essentially hollow interior, the control unit being couplable to a desired mounting surface, the control unit including at least one light, a liquid crystal display panel and a plurality of function buttons being positioned within the display unit and operatively coupled to the liquid crystal display panel, the function buttons permitting users to send a plurality of different coded sequences to the panel thereby causing different messages to be displayed on the panel.

The Examiner asserts that the Lutes reference does not disclose the claimed logic circuit for identifying a visitor based on the user code but it would have been obvious to one

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of ordinary skill in the art the time the invention was made to incorporate the chip (34) of Mozer (column 5, lines 1-5) into the circuitry of Lutes. Although a logic circuit is not specifically shown by Lutes, some form of logic circuit means would have been necessary in the display (18) of Lutes, since specific messages would have been relayed to specific visitors based on the sequence of button pushed by the visitor, thereby causing a logical process to occur so as to determine specific message to be displayed (see: column 5, lines 20-32).

In the response to Office Action dated November 21, 2003, the Appellant asserted that comparing and matching entered user codes with stored codes, as recited in the present invention, is clearly different from the implementation of audio signals, speech synthesis, speech recognition, music synthesis, digital audio recording and digital audio playback, as disclosed by the Mozer circuit. In response to the Appellant's arguments the Examiner asserts:

...the circuitry of Mozer does perform comparing and matching functions based on entered user codes with stored codes in the form of script processing (see: column 5, 7-19).

Mozer teaches user code recognition, comparing, and matching in the form of audio signal recognition, which inherently includes matching and comparison functions. Furthermore, the user customizable screening query (see: Mozer, column 5, lines 38-45) are, as well, a form of code comparing and matching, since specified speech signals received would have been required in order to produce specified messages responses, which basically is a form of code recognition wherein the speech signals are the entered code...

As previously stated, the Examiner proposes to combine the Lutes reference with the Mozer reference since the Mozer reference purportedly discloses a logic circuit that is equivalent to the recited logic circuit of claims 1 and 13. Appellant respectfully disagrees with the Examiner's proposed attempt to combine these references.

For reference structures to be properly combined and thereby render a claimed invention obvious, there must be some motivation for the combination i.e. there must be some teaching, suggestion, or incentive to make the combination claimed by the applicant.

Northern Telecom, Inc. v. Datapoint Corp. 15 USPQ2d 1321, 1323 (CAFC 1990).

Motivation coming from the applicant's own disclosure is not sufficient. Nor is it sufficient that those of ordinary skill in the art had the capability to combine the referenced structure or

understood the advantages of the combination. Although an Examiner may suggest that the structure of a primary prior art reference *could* be modified in view of a secondary prior art reference to form the claimed structure, the mere fact that the prior art *could* be so modified does not make the modification obvious ***unless the prior art suggested the desirability of the modification***. *In re Newell*, 891 F.2d 899, 13 USPQ2d 1248 (CAFC 1989). (Emphasis added.)

Here the Examiner is attempting to combine the Lutes reference with the Mozer reference based on the disclosed logic circuit of Mozer. Appellant asserts that the Examiner has provided no motivation, other than the Appellant's own disclosure, to combine the cited references. This is the essence of hindsight reasoning. As delineated above, ***the mere fact that the prior art could be so modified does not make the modification obvious unless the prior art suggested the desirability of the modification***. It is the Appellant's contention that the Lutes reference is lacking in this desirability.

The Lutes reference does not disclose a logic circuit for identifying a visitor. The Examiner has conceded this point. Lutes does disclose a user interface, however the functionality of the Lutes user interface is related to permitting users to send a plurality of different coded sequences to a display panel thereby causing different messages to be displayed on the panel. (See Lutes col. 5 lines 35-37.) ***The coded sequences are not specific to each user***. Appellant therefore asserts that the Lutes user interface is clearly not designed to identify a visitor. Consequently, since the Lutes user interface is clearly not designed to identify a visitor, there is no motivation or desirability for the Lutes reference to include a logic circuit for identifying a visitor. Appellant accordingly asserts that the Examiner's proposed combination of references is improper.

Furthermore, when making an obvious rejection under 35 U.S.C. § 103, a necessary condition is that the reference or combination of the cited references ***must teach or suggest all claim limitations***. (Emphasis added.) If the cited reference(s) do not teach or suggest every element of the claimed invention, then the cited reference(s) fail to render obvious the claimed invention, i.e. the claimed invention is distinguishable over the combination of the cited reference(s).

That being stated, Appellant further contends that even if the Examiner's proposed combination of references is arguably deemed proper, the combination of references does not

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teach or suggest every element of the recited invention. Again, the functionality of the Lutes user interface is related to permitting users to send a plurality of different coded sequences to a display panel thereby causing different messages to be displayed on the panel wherein the coded sequences are not specific to each user. Therefore, if the logic circuit of Mozer were to be combined with the Lutes reference, as the Examiner is proposing, the logic circuit would provide the functionality of sending a plurality of different coded sequences to a display panel thereby causing different messages to be displayed on the panel. This is clearly different from a logic circuit for identifying a visitor as recited in the present invention of claims 1 and 13.

Consequently, Appellant asserts that the allowability of independent claims 1 and 13 over the Examiner's proposed combination of references is based on a two-fold argument. First, since the Lutes user interface is clearly not designed to identify a visitor, there is no motivation or desirability for the Lutes reference to include a logic circuit for identifying a visitor. Lastly, if the logic circuit of Mozer were to be combined with the Lutes reference, the logic circuit would only provide the functionality of sending a plurality of different coded sequences to a display panel thereby causing different messages to be displayed on the panel. This is clearly different from a logic circuit for identifying a visitor as recited in independent claims 1 and 13. Therefore, based on the above-outlined two-fold argument, claims 1 and 13 are allowable over the Examiner's proposed combination of references.

Claims 2, 3, 5-10, 12-16, and 18-20

Since claims Claims 2, 3, 5-10, 12-16, and 18-20 are respectively dependent on claims 1 and 13, the above-articulated arguments with regard to claims 1 and 13 apply with equal force to claims Claims 2, 3, 5-10, 12-16, and 18-20. Accordingly, claims Claims 2, 3, 5-10, 12-16, and 18-20 should be allowed over the Examiner's cited references.

Claim 11

Claim 11 is dependent on claim 10 and is reproduced herein below:

11. The arrangement of claim 10 wherein the second communication device is a mobile telephone.

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Regarding claim 11, the Examiner states:

"...it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a mobile telephone into the second communication device, since Mozer already teaches the interface (32) being a telephone interface which allows interaction via a telephone, and therefore utilizing a mobile telephone in the interface would have allowed the resident to be more versatile with their movements so as not to be restricted to one place in order to receive and/or communicate with visitors."

Appellant respectfully disagrees. The telephone interface 32 that is disclosed in Mozer is a telephone jack (see element 32, Figure 2 of Mozer, attached Exhibit A) that is typically utilized in conjunction with a *non-mobile phone*. This is clearly different from the present invention of claim 11 which recites the implementation of a mobile phone. A mobile telephone is a telephone that uses a network of short-range transmitters located in overlapping cells throughout a region, with a central station making connections to regular telephone lines. Since the Mozer telephone interface 32 is a phone jack for a non-mobile phone, Appellant asserts that the telephone interface 32 of the Mozer reference does not teach or suggest the incorporation of a mobile telephone as recited in claim 11 of the present invention. Accordingly, the Examiner's proposed combination of references does not teach or suggest every element of the recited invention. Therefore, claim 11 is allowable over the Examiner's rejection.

B. Claims 4 and 17 are not unpatentable under 35 U.S.C. § 103(a) over Lutes in view of Mozer as applied to claims 1 and 14 and further in view of Puchek et al. (U.S. Pat No 6,496,595)

Insofar as the Puchek et al reference fails to correct the outlined deficiency of the Lutes and Mozer references, Appellant asserts that the Examiner's proposed combination of the Lutes reference, the Mozer reference and the Puchek reference does not teach or suggest the limitations as recited in claims 1 and 13 of the present invention. Furthermore, since claims 4 and 17 are respectively dependent on claims 1 and 13, the above-articulated arguments with regard to claims 1 and 13 apply with equal force to claims 4 and 17. Accordingly, claims 4 and 17 should be allowed over these references.

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CONCLUSION

For the above reasons, Appellants respectfully submit that the cited references neither anticipate nor render obvious claims of the pending Application. The pending claims distinguish over the cited references, and therefore, Appellants respectfully submit that the rejections must be withdrawn, and respectfully request the Examiner be reversed and claims 1-20 be allowed.

Any inquiry regarding this Response should be directed to Wendell J. Jones at Telephone No. (408) 938-0980. In addition, all correspondence should continue to be directed to the following address:

IP Administration
Legal Department, M/S 35
HEWLETT-PACKARD COMPANY
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Respectfully submitted,

David A. Braun

By their attorney,

Wendell J. Jones

Date: April 8, 2009

/Wendell J. Jones/

Wendell J. Jones

Reg. No. 45,961

CLAIMS APPENDIX

1. (Previously Amended) A doorbell arrangement comprising:
 - a user interface for entering a user code indicative of a visitor;
 - a logic circuit for identifying the visitor based on the entered user code; and
 - a signal transmitter for transmitting a particular response signal wherein the particular response signal is based on the identification of the visitor by the logic circuit.
2. (Previously Amended) The arrangement of claim 1 further comprising a memory for storing the response signals to the signal transmitter.
3. (Original) The arrangement of claim 1 wherein the user interface is a keypad and the user code is a keystroke sequence.
4. (Original) The arrangement of claim 1 wherein the user interface is a camera and the user code is image data captured by the camera.
5. (Previously Amended) The arrangement of claim 1 wherein the user interface is a microphone and user code is a sound created by the visitor.
6. (Previously Amended) The arrangement of claim 2, wherein the signal transmitter is a speaker and the response signal is an audio signal.
7. (Previously Amended) The arrangement of claim 1 further comprising a computer for providing the response signal to the signal transmitter.
8. (Previously Amended) The arrangement of claim 7, wherein the signal transmitter is a speaker and the response signal is an audio signal.

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9. (Previously Amended) The arrangement of claim 8 wherein the signal generator is a first communication device and the response signal is a radio frequency signal.

10. (Original) The arrangement of claim 9 further comprising a second communication device for receiving the radio frequency signal from the first communication device.

11. (Original) The arrangement of claim 10 wherein the second communication device is a mobile telephone.

12. (Original) The arrangement of claim 6 wherein the user interface is a keypad and the user code is a keystroke sequence.

13. (Previously Amended) A method of identifying a visitor by using a doorbell arrangement having a user interface for entering a user code, the method comprising:

receiving the user code via the user interface wherein the user code is indicative of the visitor;

automatically identifying the visitor from the user code; and

transmitting a signal in response to the identification of the visitor, wherein the signal is indicative of the visitor.

14. (Previously Amended) The method of claim 13 wherein the step of automatically identifying the visitor comprises:

comparing the user code with a plurality of stored codes; and

determining the identity of the visitor from at least one stored code of the plurality of stored codes that matches the user code.

15. (Original) The method of claim 14 wherein the user interface is a keypad and the user code is a keystroke sequence entered on the keypad.

16. (Previously Amended) The method of claim 14 wherein the user interface is a microphone and the user code is a sound created by the visitor.

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17. (Original) The method of claim 14 wherein the user interface is a camera, and the user code is image data captured by the camera

18. (Original) The method of claim 14 wherein the signal transmitted in response to the user code is an audio signal.

19. (Previously Amended) The method of claim 18 wherein the audio signal is one of a plurality of alarm signals, wherein the alarm signal transmitted is dependent upon the number of times the user code is entered within a predetermined timeframe.

20. (Previously Amended) The method of claim 14 wherein the signal transmitted in response to the user code is a radio frequency signal to be received by a communication device at a remote location through which a home dweller and the visitor are able to communicate.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.